

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CLARENCE VAIDEN LITCHFIELD,	:	
Plaintiff,	:	
	:	
v.	:	Case No. 5:21-cv-5068-JDW
	:	
LEHIGH COUNTY PRISON, et al.	:	
Defendants.	:	

ORDER

AND NOW, this 17th day of February 2022, upon consideration of Plaintiff Clarence Vaiden Litchfield's Motion To Proceed *In Forma Pauperis* (ECF No. 5) and his *pro se* Complaint (ECF No. 2), it is **ORDERED** as follows:

1. The Motion To Proceed *In Forma Pauperis* (ECF No. 5) is **GRANTED** pursuant to 28 U.S.C. § 1915;
2. Clarence Vaiden Litchfield, #0808035, shall pay the full filing fee of \$350 in installments, pursuant to 28 U.S.C. § 1915(b), regardless of the outcome of this case. The Court directs the Warden of the Lehigh County Prison or other appropriate official to assess an initial filing fee of 20% of the greater of (a) the average monthly deposits to Litchfield's inmate account; or (b) the average monthly balance in Litchfield's inmate account for the six-month period immediately preceding the filing of this case. The Warden or other appropriate official shall calculate, collect, and forward the initial payment assessed pursuant to this Order to the Court with a reference to the docket number for this case. In each succeeding month when the amount in Litchfield's inmate trust fund account exceeds \$10.00, the Warden or other

appropriate official shall forward payments to the Clerk of Court equaling 20% of the preceding month's income credited to Litchfield's inmate account until the fees are paid. Each payment shall refer to the docket number for this case;

3. The Clerk of Court shall send a copy of this Order to the Warden of Lehigh County Prison;

4. The Complaint is deemed filed;

5. For the reasons stated in the accompanying Memorandum, the Complaint is **DISMISSED IN PART WITH PREJUDICE** and **DISMISSED IN PART WITHOUT PREJUDICE**, as follows:

a. All claims against Defendants Kyle Russell and Janine Donate are **DISMISSED WITHOUT PREJUDICE**; and

b. All other claims are **DISMISSED WITH PREJUDICE**;

6. The Clerk of Court shall terminate the Lehigh County Prison and the City of Allentown as Defendants.

7. On or before March 18, 2022, Mr. Litchfield may file an amended complaint in the event he can cure the defects in the claims the Court has dismissed without prejudice. Any amended complaint must identify all defendants in the caption of the amended complaint in addition to identifying them in the body of the amended complaint and shall state the basis for Litchfield's claims against each defendant. The amended complaint shall be a complete document that includes all claims Litchfield seeks to raise against Russell and Donate. The amended complaint may not rely on the initial Complaint or other papers filed in this case to state a claim.

Litchfield may not assert a claim that has already been dismissed with prejudice. When drafting his amended complaint, Litchfield should be mindful of the Court's reasons for dismissing the claims in his initial Complaint as explained in the Court's Memorandum. Upon the filing of an amended complaint, the Clerk shall not make service until the Court so orders;

8. The Clerk of Court shall send Mr. Litchfield a blank copy of the Court's form complaint for a prisoner filing a civil rights action bearing the above civil action number. Mr. Litchfield may use this form to file his amended complaint if he chooses to do so;

9. If Litchfield does not wish to amend his Complaint and instead intends to stand on his Complaint as originally pled, then on or before March 18, 2022, he may file a notice with the Court stating that intent, at which time the Court will issue a final order dismissing the case. Any such notice should be titled "Notice to Stand on Complaint," and shall include the civil action number for this case; and

10. If Mr. Litchfield fails to file any response to this Order, the Court will conclude that Litchfield intends to stand on his Complaint and will issue a final order dismissing this case.

BY THE COURT:

/s/ Joshua D. Wolson

JOSHUA D. WOLSON, J.